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AUG 15 2006

In re Application of  
Paul Szabo et al.  
Application No. 10/644,692  
Filing Date: August 20, 2003  
Attorney Docket No.:  
50002.0035US11  
Title: METHOD AND SYSTEM FOR  
SCALING NETWORK TRAFFIC  
MANAGERS

**OFFICE OF PETITIONS**

DECISION ON PETITIONS  
UNDER 37 C.F.R. §§1.78(A) (3)  
AND 1.78(A) (6)

This is a decision on the petitions under 37 C.F.R §§ 1.78(a) (3) and 1.78(a) (6), concurrently filed April 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 C.F.R. §§ 1.78(a) (3) and 1.78(a) (6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §§ 1.78(a) (2) (ii) and 1.78(a) (5) (ii). In addition, the petition under 37 C.F.R. §§ 1.78(a) (3) and 1.78(a) (6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 C.F.R. §§ 1.78(a) (2) (i) and 1.78(a) (5) (i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and

- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 C.F.R. 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 C.F.R. 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed non-provisional application, accompanies this decision on petition.

Technology Center Art Unit 2157 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this petition, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional application.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

A handwritten signature in cursive script, appearing to read "Frances Hicks".

Frances Hicks  
Petitions Examiner  
Office of Petitions  
United States Patent and Trademark Office

**ATTACHMENT:** Corrected Filing Receipt



## UNITED STATES PATENT AND TRADEMARK OFFICE

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 United States Patent and Trademark Office  
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/644,692	08/20/2003	2157	1236	50002.0035US11	9	33	6

38878  
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CONFIRMATION NO. 6716

## CORRECTED FILING RECEIPT



\*OC000000019146027\*

Date Mailed: 06/07/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

## Applicant(s)

Paul Szabo, Seattle, WA;  
 David D. Schmitt, Seattle, WA;  
 Ning X. Li, Sequim, WA;

## Assignment For Published Patent Application

F5 Networks, Inc., Seattle, WA

**Power of Attorney:** The patent practitioners associated with Customer Number 38878.

## Domestic Priority data as claimed by applicant

This application is a CIP of 10/119,433 04/09/2002  
 which claims benefit of 60/293,466 05/24/2001

## Foreign Applications

If Required, Foreign Filing License Granted: 11/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/644,692**

**Projected Publication Date:** Request for Non-Publication Acknowledged

**Non-Publication Request:** Yes

**Early Publication Request:** No

**Title**

Method and system for scaling network traffic managers

**Preliminary Class**

709

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15**

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#### **NOT GRANTED**

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